

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

DARYL COOK

: CIVIL ACTION

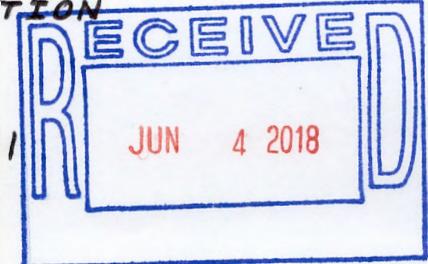
JUN 04 2018

v.

KATE BARKMAN, Clerk

By ^{Dep. Clerk}

CITY OF PHILADELPHIA, et al : NO. 17-331



PLAINTIFF'S DOCUMENT IN SUPPORT OF SUPPLEMENTAL
MOTION FOR APPOINTMENT OF COUNSEL AND DECLARATION

In support of Plaintiff's request for judgment in his favor or appointment of counsel to conduct discovery and all further proceedings, in his "supplemental motion for appointment of counsel and declaration", Plaintiff hereby submits the attached document (i.e. copy of "Answer and New Matter of Defendants Detective Dean and Lt. Rodden") as proof that he was not served with a copy of same as indicated by the "Certificate of Service" attached thereto and as proof that Defendant Shoffel did not serve Plaintiff with a copy of same and a copy of her petition to open the default judgments

and she did not attach a copy of same to her petition to open or to her motion for summary judgment along with her petition to open, because her petition to open and her answer to the complaint filed in the state court does not state a meritorious defense, thus, she knew that the state court action judge would open the default judgments due to Plaintiff not filing an answer to the petition to open. See Supplemental Motion for Appointment of Counsel and Declaration; Answer and New Matter of Defendants Detective Dean and Lt. Rodden (failing to show a meritorious defense and that Plaintiff was served); Petition to Open attached as Exhibit B to Defendant Shoffel's Motion for Summary Judgment (failing to show a meritorious defense). See also Fleet National Bank v. Taylor, 2005 Phila. Ct. Com. Pl. LEXIS 3; Complaint at 8-22, 26-27, 29 and 33.

Date: May 27, 2018

Respectfully submitted,
Daryl Cook
DARYL COOK
Pro se Plaintiff

1. It is significant to note that the Defendants' names are Detective Rodden and Lieutenant Dean and the certificate of Service indicate that "counsel for Plaintiff" was served "via electronic mail," not Plaintiff, who was pro se.

CITY OF PHILADELPHIA LAW DEPARTMENT
AMANDA C. SHOFFEL
DEPUTY CITY SOLICITOR
IDENTIFICATION NO. 306956
1515 ARCH STREET, 14TH FLOOR
PHILADELPHIA, PA 19102-1595
TEL (215) 683-5443 AND FAX (215) 683-5397
amanda.shoffel@phila.gov

NOTICE TO PLEAD

You are hereby notified to file a written response to the ~~return~~ New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

A. Shoffel
PROTHONOTARY
27 JAN 2014 09:00 AM
CITY OF PHILADELPHIA
COMMONWEALTH OF PENNSYLVANIA
NOTARY

Amanda C. Shoffel
Deputy City Solicitor

DARYL COOK

Plaintiff

COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

v.

April Term 2012

THE CITY OF PHILADELPHIA, et al.

Defendants

No. 120404474

ANSWER AND NEW MATTER OF DEFENDANTS DETECTIVE DEAN AND LT. RODDEN

Defendants, Detective Dean and Lt. Rodden, by and through the undersigned counsel, Amanda Shoffel Deputy City Solicitor, hereby file this Answer and New Matter to the Plaintiff's Complaint, and aver as follows:

1. The allegations in this paragraph are conclusions of law to which no response is required. To the extent and response is required, denied.
2. The allegations in this paragraph are conclusions of law to which no response is required. To the extent and response is required, denied.
3. The allegations in this paragraph are conclusions of law to which no response is required. To the extent and response is required, denied.

PARTIES

4. Admitted, under information and belief.

5. Denied. By way of further response, The City of Philadelphia has been dismissed from the instant action and is no longer a party.
6. The allegations in this paragraph are directed to persons other than the Answering Defendants, therefore- no response is required.
7. Admitted only that Lt. Dean is employed by the Philadelphia Prison System. All remaining allegations are denied.
8. The allegations in this paragraph are directed to persons other than the Answering Defendants, therefore- no response is required.
9. Admitted only that Det. Rodden is employed by the Philadelphia Police Department. All remaining allegations are denied.
10. The allegations in this paragraph are directed to persons other than the Answering Defendants, therefore- no response is required.
11. The allegations in this paragraph are directed to persons other than the Answering Defendants, therefore- no response is required.
12. The allegations in this paragraph are directed to persons other than the Answering Defendants, therefore- no response is required.

FACTS

13. Denied. Strict proof demanded.
14. Denied. Strict proof demanded.
15. Denied. Strict proof demanded.
16. Denied. Strict proof demanded.
17. Denied. Strict proof demanded.
18. Denied. Strict proof demanded.

19. Denied. Strict proof demanded.
20. Denied. Strict proof demanded.
21. Denied. Strict proof demanded.
22. Denied. Strict proof demanded.
23. Denied. Strict proof demanded.
24. Denied. Strict proof demanded.
25. Denied. Strict proof demanded.
26. Denied. Strict proof demanded.
27. Denied. Strict proof demanded.

RELIEF

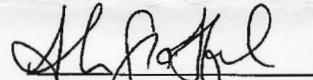
28. Denied. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.
29. Denied. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.
30. Denied. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.
31. Denied. The allegations in this paragraph constitute conclusions of law to which no response is required. To the extent a response is required, the allegations in this paragraph are denied.

JURY TRIAL DEMAND

32. Defendant demands a trial by jury on all counts of Plaintiff's Complaint.

WHEREFORE, answering Defendants deny they are liable upon all of the causes of action declared upon, and demands judgment in their favor plus interests and costs.

Respectfully Submitted,



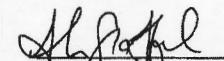
AMANDA C. SHOFFEL
Deputy City Solicitor
1515 Arch Street, 14th Floor
Philadelphia, PA 19102-1595

Date: January 27, 2014

CITY OF PHILADELPHIA LAW DEPARTMENT
AMANDA C. SHOFFEL
DEPUTY CITY SOLICITOR
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1515 ARCH STREET, 14TH FLOOR
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amanda.shoffel@phila.gov

NOTICE TO PLEAD

You are hereby notified to file a written response to the within New Matter within twenty (20) days from service hereof or a judgment may be entered against you.



Amanda C. Shoffel
Deputy City Solicitor

DARYL COOK Plaintiff

v.

THE CITY OF PHILADELPHIA, et al. Defendants

COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

April Term 2012

No. 120404474

NEW MATTER

Defendants, by and through this undersigned counsel, Amanda C. Shoffel, plead the following New Matter:

1. Plaintiff's alleged injuries, sufferings, and/or damages, if any, were caused by his own willful and/or malicious misconduct.
2. It is further averred that if Plaintiff sustained injuries and damages as alleged, they were due solely and or primarily to his assumption of the risk of said injuries and damages.
3. Answering Defendants assert all of the defenses, immunities, and limitations of damages available to them under the "Political Subdivision Tort Claims

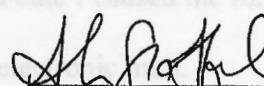
Act," and aver that the Plaintiff's remedies are limited exclusively thereto.

Act of Oct. 5, 1980, No. 142, P.L. 693, 42 Pa. C.S.A. §8541 et seq.

4. Any force used against plaintiff was reasonable and necessary under the circumstances.
5. Law enforcement privilege sanctioned any physical contact the Defendants had with Plaintiff.
6. Defendant's actions were sanctioned by 18 Pa. Cons. Stat. § 508, which expressly authorizes the use of force by law enforcement to prevent another person from committing or consummating the commission of a crime involving or threatening bodily injury.

WHEREFORE, Answering Defendants deny they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

Respectfully Submitted,



AMANDA C. SHOFFEL
Deputy City Solicitor
1515 Arch Street, 14th Floor
Philadelphia, PA 19102-1595

Date: January 27, 2014

CERTIFICATE OF SERVICE

I, Daryl Cook, do hereby certify that I caused a true and correct copy of the foregoing document to be served on this 28th day of May, 2018, by first class mail, to:

Meghan E. Claiborne, Esq.
Assistant City Solicitor
City of Philadelphia Law Department
1515 Arch Street, 14th Fl.
Philadelphia, PA 19102
(215) 683-5447
(Counsel for Defendant Shoffel)

FILED
JUN 04 2018
By KATE BARKMAN, Clerk
Dep. Clerk

By: Daryl Cook
DARYL COOK
JRW635
SCI-Fayette
48 Overlook Drive
LaBelle, PA 15450-1050
(Pro Se Plaintiff)

K, # JR8635
- Fayette
Overlook Drive
LaBelle, PA 15450-1050

URGENT
LEGAL MAIL

Inmate Mail-Pa
Department of Corrections



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Office of the Clerk
United States District Court
601 Market Street
Philadelphia, PA 19106



"Inmate Mail - PA DEPT. OF CORRECTIONS"

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